

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUMBERTO CHAVEZ,
Petitioner,

No. C-11-0376 EMC

v.


GREG LEWIS,
Respondent.

**ORDER GRANTING PETITIONER'S
EX PARTE APPLICATION FOR LEAVE
TO FILE LATE NOTICE OF APPEAL**

(Docket No. 23)

Petitioner Humberto Chavez has filed an ex parte application, asking for leave to file a late notice of appeal. Respondent Greg Lewis has opposed the application. Having considered the four factors established by the Supreme Court in *Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership*, 507 U.S. 380 (1993), the Court **GRANTS** Petitioner's application. The *Pioneer* factors largely weigh in favor of Petitioner. Even if the reason for the delay was somewhat within the control of Petitioner, the Ninth Circuit has expressly rejected the contention that a party's "neglect cannot be excused because it was caused by circumstances within [his or her] control." *Mendez v. Knowles*, 556 F.3d 757, 765 (9th Cir. 2009).

Dated: August 28, 2012


EDWARD M. CHEN
United States District Judge